

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 751**

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**Introduced by Assembly Member Furutani**

February 17, 2011

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An act to amend Sections 1240, ~~1630, 42127.6,~~ and 42131 of the Education Code, relating to education finance.

### LEGISLATIVE COUNSEL'S DIGEST

AB 751, as amended, Furutani. Education finance.

(1) Existing law requires the county superintendent of schools to ~~report to the Superintendent of Public Instruction submit 2 reports during the fiscal year to the county board of education on the financial condition of a county office of education or a school district if the county superintendent determines, which certify if the county office of education or a school district may be~~ is unable to meet its financial obligations for the current or 2 subsequent fiscal years or if a county office of education ~~or a school district has a~~ *positive*, qualified, or negative certification. ~~Existing law requires the Superintendent of Public Instruction to take at least one of certain actions, and all actions that are necessary, to ensure that a county office of education meets its financial obligations for the current and 2 subsequent fiscal years. Existing law requires the county superintendent to take similar actions with respect to school districts.~~

This bill would instead require a county superintendent of schools to ~~report to the Superintendent of Public Instruction on the financial condition of the county office of education or a school district if the county superintendent determines the county office of education or a school district may be~~ unable to meet its financial obligations for the

~~current or the subsequent fiscal year, rather than for the current fiscal year and 2 subsequent fiscal years.~~

*This bill would require the Superintendent of Public Instruction and the county superintendent to clearly distinguish between specified county offices of education as part of each of those reports, and any other report that indicated that a county office of education is assigned a qualified certification.*

(2) Existing law requires the superintendent of each school district to submit 2 reports during the fiscal year to the governing board of the school district on the financial condition of the district. Pursuant to these reports, existing law requires the governing board of each school district to ~~clarify~~ certify, in writing, within 45 days after the close of the period being reported, whether the school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year.

~~Existing law requires the county superintendent of schools to report to the Superintendent of Public Instruction whether the county office of education is able to meet its financial obligations for the current and 2 subsequent fiscal years. Pursuant to existing law, a negative certification is assigned to a county office of education or a school district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year; a qualified certification is assigned to an office or district that may not meet its financial obligations for the current fiscal year or 2 subsequent fiscal years; and a positive certification to an office or district that will meet its financial obligations for the current fiscal year and 2 subsequent fiscal years.~~

~~This bill would change the standards for the certifications so that a negative certification is assigned to an office or district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year; a qualified certification would be assigned to an office or district that may not meet its financial obligations for the current fiscal year or the subsequent fiscal year; and a positive certification to an office or district that will meet its financial obligations for the current fiscal year and the subsequent fiscal year.~~

*This bill would require the Superintendent, a county superintendent, and the governing board of a school district to clearly distinguish between specified school districts as part of each of those reports, and any other report that indicates that a school district is assigned a qualified certification.*

*The bill would also require the governing board of a school district that chooses to propose reductions or cuts to expenditures in the current fiscal year, after being assigned a qualified certification for a specified reason, to present that proposal, as specified, at an open public meeting. The bill would also authorize the Superintendent to waive specified reporting, certification, and intervention requirements for a county office of education and school district if specified conditions are met.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1240 of the Education Code is amended  
2 to read:  
3 1240. The county superintendent of schools shall do all of the  
4 following:  
5 (a) Superintend the schools of his or her county.  
6 (b) Maintain responsibility for the fiscal oversight of each school  
7 district in his or her county pursuant to the authority granted by  
8 this code.  
9 (c) (1) Visit and examine each school in his or her county at  
10 reasonable intervals to observe its operation and to learn of its  
11 problems. He or she annually may present a report of the state of  
12 the schools in his or her county, and of his or her office, including,  
13 but not limited to, his or her observations while visiting the schools,  
14 to the board of education and the board of supervisors of his or  
15 her county.  
16 (2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the  
17 extent that funds are appropriated for purposes of this paragraph,  
18 the county superintendent, or his or her designee, annually shall  
19 submit a report, at a regularly scheduled November board meeting,  
20 to the governing board of each school district under his or her  
21 jurisdiction, the county board of education of his or her county,  
22 and the board of supervisors of his or her county describing the  
23 state of the schools in the county or of his or her office that are  
24 ranked in deciles 1 to 3, inclusive, of the 2003 base Academic  
25 Performance Index (API), as defined in subdivision (b) of Section  
26 17592.70, and shall include, among other things, his or her  
27 observations while visiting the schools and his or her  
28 determinations for each school regarding the status of all of the

1 circumstances listed in subparagraph (J) and teacher  
2 misassignments and teacher vacancies. As a condition for receipt  
3 of funds, the county superintendent, or his or her designee, shall  
4 use a standardized template to report the circumstances listed in  
5 subparagraph (J) and teacher misassignments and teacher  
6 vacancies, unless the current annual report being used by the county  
7 superintendent, or his or her designee, already includes those details  
8 for each school.

9 (B) Commencing with the 2007–08 fiscal year, to the extent  
10 that funds are appropriated for purposes of this paragraph, the  
11 county superintendent, or his or her designee, annually shall submit  
12 a report, at a regularly scheduled November board meeting, to the  
13 governing board of each school district under his or her jurisdiction,  
14 the county board of education of his or her county, and the board  
15 of supervisors of his or her county describing the state of the  
16 schools in the county or of his or her office that are ranked in  
17 deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section  
18 52056. As a condition for the receipt of funds, the annual report  
19 shall include the determinations for each school made by the county  
20 superintendent, or his or her designee, regarding the status of all  
21 of the circumstances listed in subparagraph (J) and teacher  
22 misassignments and teacher vacancies, and the county  
23 superintendent, or his or her designee, shall use a standardized  
24 template to report the circumstances listed in subparagraph (J) and  
25 teacher misassignments and teacher vacancies, unless the current  
26 annual report being used by the county superintendent, or his or  
27 her designee, already includes those details with the same level of  
28 specificity that is otherwise required by this subdivision. For  
29 purposes of this section, schools ranked in deciles 1 to 3, inclusive,  
30 on the 2006 base API shall include schools determined by the  
31 department to meet either of the following:

- 32 (i) The school meets all of the following criteria:  
33 (I) Does not have a valid base API score for 2006.  
34 (II) Is operating in fiscal year 2007–08 and was operating in  
35 fiscal year 2006–07 during the Standardized Testing and Reporting  
36 (STAR) Program testing period.  
37 (III) Has a valid base API score for 2005 that was ranked in  
38 deciles 1 to 3, inclusive, in that year.  
39 (ii) The school has an estimated base API score for 2006 that  
40 would be in deciles 1 to 3, inclusive.

1 (C) The department shall estimate an API score for any school  
2 meeting the criteria of subclauses (I) and (II) of clause (i) of  
3 subparagraph (B) and not meeting the criteria of subclause (III)  
4 of clause (i) of subparagraph (B), using available test scores and  
5 weighting or corrective factors it deems appropriate. The  
6 department shall post the API scores on its Internet Web site on  
7 or before May 1.

8 (D) For purposes of this section, references to schools ranked  
9 in deciles 1 to 3, inclusive, on the 2006 base API shall exclude  
10 schools operated by county offices of education pursuant to Section  
11 56140, as determined by the department.

12 (E) In addition to the requirements above, the county  
13 superintendent, or his or her designee, annually shall verify both  
14 of the following:

15 (i) That pupils who have not passed the high school exit  
16 examination by the end of grade 12 are informed that they are  
17 entitled to receive intensive instruction and services for up to two  
18 consecutive academic years after completion of grade 12 or until  
19 the pupil has passed both parts of the high school exit examination,  
20 whichever comes first, pursuant to paragraphs (4) and (5) of  
21 subdivision (d) of Section 37254.

22 (ii) That pupils who have elected to receive intensive instruction  
23 and services, pursuant to paragraphs (4) and (5) of subdivision (d)  
24 of Section 37254, are being served.

25 (F) (i) Commencing with the 2010–11 fiscal year and every  
26 third year thereafter, the Superintendent shall identify a list of  
27 schools ranked in deciles 1 to 3, inclusive, of the API for which  
28 the county superintendent, or his or her designee, annually shall  
29 submit a report, at a regularly scheduled November board meeting,  
30 to the governing board of each school district under his or her  
31 jurisdiction, the county board of education of his or her county,  
32 and the board of supervisors of his or her county that describes the  
33 state of the schools in the county or of his or her office that are  
34 ranked in deciles 1 to 3, inclusive, of the base API as defined in  
35 clause (ii).

36 (ii) For the 2010–11 fiscal year, the list of schools ranked in  
37 deciles 1 to 3, inclusive, of the base API shall be updated using  
38 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
39 subparagraph (C), and subparagraph (D), as applied to the 2009  
40 base API and thereafter, shall be updated every third year using

1 the criteria set forth in clauses (i) and (ii) of subparagraph (B),  
2 subparagraph (C), and subparagraph (D), as applied to the base  
3 API of the year preceding the third year consistent with clause (i).

4 (iii) As a condition for the receipt of funds, the annual report  
5 shall include the determinations for each school made by the county  
6 superintendent, or his or her designee, regarding the status of all  
7 of the circumstances listed in subparagraph (J) and teacher  
8 misassignments and teacher vacancies, and the county  
9 superintendent, or his or her designee, shall use a standardized  
10 template to report the circumstances listed in subparagraph (J) and  
11 teacher misassignments and teacher vacancies, unless the current  
12 annual report being used by the county superintendent, or his or  
13 her designee, already includes those details with the same level of  
14 specificity that is otherwise required by this subdivision.

15 (G) The county superintendent of the Counties of Alpine,  
16 Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City  
17 and County of San Francisco shall contract with another county  
18 office of education or an independent auditor to conduct the  
19 required visits and make all reports required by this paragraph.

20 (H) On a quarterly basis, the county superintendent, or his or  
21 her designee, shall report the results of the visits and reviews  
22 conducted that quarter to the governing board of the school district  
23 at a regularly scheduled meeting held in accordance with public  
24 notification requirements. The results of the visits and reviews  
25 shall include the determinations of the county superintendent, or  
26 his or her designee, for each school regarding the status of all of  
27 the circumstances listed in subparagraph (J) and teacher  
28 misassignments and teacher vacancies. If the county  
29 superintendent, or his or her designee, conducts no visits or reviews  
30 in a quarter, the quarterly report shall report that fact.

31 (I) The visits made pursuant to this paragraph shall be conducted  
32 at least annually and shall meet the following criteria:

33 (i) Minimize disruption to the operation of the school.  
34 (ii) Be performed by individuals who meet the requirements of  
35 Section 45125.1.

36 (iii) Consist of not less than 25 percent unannounced visits in  
37 each county. During unannounced visits in each county, the county  
38 superintendent shall not demand access to documents or specific  
39 school personnel. Unannounced visits shall only be used to observe

1 the condition of school repair and maintenance, and the sufficiency  
2 of instructional materials, as defined by Section 60119.

3 (J) The priority objective of the visits made pursuant to this  
4 paragraph shall be to determine the status of all of the following  
5 circumstances:

6 (i) Sufficient textbooks as defined in Section 60119 and as  
7 specified in subdivision (i).

8 (ii) The condition of a facility that poses an emergency or urgent  
9 threat to the health or safety of pupils or staff as defined in district  
10 policy or paragraph (1) of subdivision (c) of Section 17592.72.

11 (iii) The accuracy of data reported on the school accountability  
12 report card with respect to the availability of sufficient textbooks  
13 and instructional materials, as defined by Section 60119, and the  
14 safety, cleanliness, and adequacy of school facilities, including  
15 good repair as required by Sections 17014, 17032.5, 17070.75,  
16 and 17089.

17 (iv) The extent to which pupils who have not passed the high  
18 school exit examination by the end of grade 12 are informed that  
19 they are entitled to receive intensive instruction and services for  
20 up to two consecutive academic years after completion of grade  
21 12 or until the pupil has passed both parts of the high school exit  
22 examination, whichever comes first, pursuant to paragraphs (4)  
23 and (5) of subdivision (d) of Section 37254.

24 (v) The extent to which pupils who have elected to receive  
25 intensive instruction and services, pursuant to paragraphs (4) and  
26 (5) of subdivision (d) of Section 37254, are being served.

27 (K) The county superintendent may make the status  
28 determinations described in subparagraph (J) during a single visit  
29 or multiple visits. In determining whether to make a single visit  
30 or multiple visits for this purpose, the county superintendent shall  
31 take into consideration factors such as cost-effectiveness, disruption  
32 to the schoolsite, deadlines, and the availability of qualified  
33 reviewers.

34 (L) If the county superintendent determines that the condition  
35 of a facility poses an emergency or urgent threat to the health or  
36 safety of pupils or staff as defined in district policy or paragraph  
37 (1) of subdivision (c) of Section 17592.72, or is not in good repair,  
38 as specified in subdivision (d) of Section 17002 and required by  
39 Sections 17014, 17032.5, 17070.75, and 17089, the county  
40 superintendent, among other things, may do any of the following:

- 1 (i) Return to the school to verify repairs.
- 2 (ii) Prepare a report that specifically identifies and documents
- 3 the areas or instances of noncompliance if the district has not
- 4 provided evidence of successful repairs within 30 days of the visit
- 5 of the county superintendent or, for major projects, has not
- 6 provided evidence that the repairs will be conducted in a timely
- 7 manner. The report may be provided to the governing board of the
- 8 school district. If the report is provided to the school district, it
- 9 shall be presented at a regularly scheduled meeting held in
- 10 accordance with public notification requirements. The county
- 11 superintendent shall post the report on his or her Internet Web site.
- 12 The report shall be removed from the Internet Web site when the
- 13 county superintendent verifies the repairs have been completed.
- 14 (d) Distribute all laws, reports, circulars, instructions, and blanks
- 15 that he or she may receive for the use of the school officers.
- 16 (e) Annually, on or before August 15, present a report to the
- 17 governing board of the school district and the Superintendent
- 18 regarding the fiscal solvency of a school district with a disapproved
- 19 budget, qualified interim certification, or a negative interim
- 20 certification, or that is determined to be in a position of fiscal
- 21 uncertainty pursuant to Section 42127.6.
- 22 (f) Keep in his or her office the reports of the Superintendent.
- 23 (g) Keep a record of his or her official acts, and of all the
- 24 proceedings of the county board of education, including a record
- 25 of the standing, in each study, of all applicants for certificates who
- 26 have been examined, which shall be open to the inspection of an
- 27 applicant or his or her authorized agent.
- 28 (h) Enforce the course of study.
- 29 (i) (1) Enforce the use of state textbooks and instructional
- 30 materials and of high school textbooks and instructional materials
- 31 regularly adopted by the proper authority in accordance with
- 32 Section 51050.
- 33 (2) For purposes of this subdivision, sufficient textbooks or
- 34 instructional materials has the same meaning as in subdivision (c)
- 35 of Section 60119.
- 36 (3) (A) Commencing with the 2005–06 school year, if a school
- 37 is ranked in any of deciles 1 to 3, inclusive, of the base API, as
- 38 specified in paragraph (2) of subdivision (c), and not currently
- 39 under review pursuant to a state or federal intervention program,
- 40 the county superintendent specifically shall review that school at



1 least annually as a priority school. A review conducted for purposes  
2 of this paragraph shall be completed by the fourth week of the  
3 school year. For the 2004–05 fiscal year only, the county  
4 superintendent shall make a diligent effort to conduct a visit to  
5 each school pursuant to this paragraph within 120 days of receipt  
6 of funds for this purpose.

7 (B) In order to facilitate the review of instructional materials  
8 before the fourth week of the school year, the county superintendent  
9 in a county with 200 or more schools that are ranked in any of  
10 deciles 1 to 3, inclusive, of the base API, as specified in paragraph  
11 (2) of subdivision (c), may utilize a combination of visits and  
12 written surveys of teachers for the purpose of determining  
13 sufficiency of textbooks and instructional materials in accordance  
14 with subparagraph (A) of paragraph (1) of subdivision (a) of  
15 Section 60119 and as defined in subdivision (c) of Section 60119.  
16 If a county superintendent elects to conduct written surveys of  
17 teachers, the county superintendent shall visit the schools surveyed  
18 within the same academic year to verify the accuracy of the  
19 information reported on the surveys. If a county superintendent  
20 surveys teachers at a school in which the county superintendent  
21 has found sufficient textbooks and instructional materials for the  
22 previous two consecutive years and determines that the school  
23 does not have sufficient textbooks or instructional materials, the  
24 county superintendent shall within 10 business days provide a copy  
25 of the insufficiency report to the school district as set forth in  
26 paragraph (4).

27 (C) For purposes of this paragraph, “written surveys” may  
28 include paper and electronic or online surveys.

29 (4) If the county superintendent determines that a school does  
30 not have sufficient textbooks or instructional materials in  
31 accordance with subparagraph (A) of paragraph (1) of subdivision  
32 (a) of Section 60119 and as defined by subdivision (c) of Section  
33 60119, the county superintendent shall do all of the following:

34 (A) Prepare a report that specifically identifies and documents  
35 the areas or instances of noncompliance.

36 (B) Provide within five business days of the review, a copy of  
37 the report to the school district, as provided in subdivision (c), or,  
38 if applicable, provide a copy of the report to the school district  
39 within 10 business days pursuant to subparagraph (B) of paragraph  
40 (3).

1 (C) Provide the school district with the opportunity to remedy  
2 the deficiency. The county superintendent shall ensure remediation  
3 of the deficiency no later than the second month of the school term.

4 (D) If the deficiency is not remedied as required pursuant to  
5 subparagraph (C), the county superintendent shall request the  
6 department to purchase the textbooks or instructional materials  
7 necessary to comply with the sufficiency requirement of this  
8 subdivision. If the department purchases textbooks or instructional  
9 materials for the school district, the department shall issue a public  
10 statement at the first regularly scheduled meeting of the state board  
11 occurring immediately after the department receives the request  
12 of the county superintendent and that meets the applicable public  
13 notice requirements, indicating that the district superintendent and  
14 the governing board of the school district failed to provide pupils  
15 with sufficient textbooks or instructional materials as required by  
16 this subdivision. Before purchasing the textbooks or instructional  
17 materials, the department shall consult with the district to determine  
18 which textbooks or instructional materials to purchase. All  
19 purchases of textbooks or instructional materials shall comply with  
20 Chapter 3.25 (commencing with Section 60420) of Part 33 of  
21 Division 4 of Title 2. The amount of funds necessary for the  
22 purchase of the textbooks and materials is a loan to the school  
23 district receiving the textbooks or instructional materials. Unless  
24 the school district repays the amount owed based upon an  
25 agreed-upon repayment schedule with the Superintendent, the  
26 Superintendent shall notify the Controller and the Controller shall  
27 deduct an amount equal to the total amount used to purchase the  
28 textbooks and materials from the next principal apportionment of  
29 the district or from another apportionment of state funds.

30 (j) Preserve carefully all reports of school officers and teachers.

31 (k) Deliver to his or her successor, at the close of his or her  
32 official term, all records, books, documents, and papers belonging  
33 to the office, taking a receipt for them, which shall be filed with  
34 the department.

35 (l) (1) Submit two reports during the fiscal year to the county  
36 board of education in accordance with the following:

37 (A) The first report shall cover the financial and budgetary status  
38 of the county office of education for the period ending October  
39 31. The second report shall cover the period ending January 31.  
40 Both reports shall be reviewed by the county board of education

1 and approved by the county superintendent no later than 45 days  
2 after the close of the period being reported.

3 (B) As part of each report, the county superintendent shall certify  
4 in writing whether or not the county office of education is able to  
5 meet its financial obligations for the remainder of the fiscal year  
6 and, based on current forecasts, for ~~the subsequent fiscal year~~ *two*  
7 *subsequent fiscal years*. The certifications shall be classified as  
8 positive, qualified, or negative, pursuant to standards prescribed  
9 by the Superintendent, for the purposes of determining subsequent  
10 state agency actions pursuant to Section 1240.1. For purposes of  
11 this subdivision, a negative certification shall be assigned to a  
12 county office of education that, based upon current projections,  
13 will not meet its financial obligations for the remainder of the fiscal  
14 year *or for the subsequent fiscal year*. A qualified certification  
15 shall be assigned to a county office of education that may not meet  
16 its financial obligations for the current fiscal year ~~or the subsequent~~  
17 ~~fiscal year~~ *two subsequent fiscal years*. A positive certification  
18 shall be assigned to a county office of education that will meet its  
19 financial obligations for the current fiscal year ~~and the subsequent~~  
20 ~~fiscal year~~ *two subsequent fiscal years*. In accordance with those  
21 standards, the Superintendent may reclassify a certification. If a  
22 county office of education receives a negative certification, the  
23 Superintendent, or his or her designee, may exercise the authority  
24 set forth in subdivision (c) of Section 1630. Copies of each  
25 certification, and of the report containing that certification, shall  
26 be sent to the Superintendent at the time the certification is  
27 submitted to the county board of education. Copies of each  
28 qualified or negative certification and the report containing that  
29 certification shall be sent to the Controller at the time the  
30 certification is submitted to the county board of education.

31 (C) *As part of each report submitted pursuant to this paragraph,*  
32 *and any other report that indicates that a county office of education*  
33 *is assigned a qualified certification as defined in this subdivision,*  
34 *the Superintendent and the county superintendent shall clearly*  
35 *distinguish between a county office of education that is assigned*  
36 *a qualified certification because, based on current projections, it*  
37 *may not meet its financial obligations only for the second*  
38 *subsequent fiscal year following the current fiscal year, and a*  
39 *county office of education that is otherwise assigned a qualified*  
40 *certification.*

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent to an interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent is not responsible for the fiscal oversight of the community colleges in the county, ~~however~~ *but*, he or she may perform financial services on behalf of those community colleges.

(m) If requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(n) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of a certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of an educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of an educational program has been reported.

~~SEC. 2. Section 1630 of the Education Code is amended to read:~~

~~1630. (a) The Superintendent shall review and consider studies, reports, evaluations, or audits of the county office of education that contain evidence that the county office of education is demonstrating fiscal distress according to the standards and criteria developed pursuant to Section 33127 or that contain a finding by an external reviewer that more than 3 of the 15 most common predictors of school agencies needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team, are present. If those findings are made, the Superintendent shall investigate the financial condition of the county office of education and determine if the county office of education may be unable to meet its financial obligations for the current or the subsequent fiscal year, or should receive a qualified or negative interim financial certification pursuant to Section 1240.~~

1 ~~(b) If at any time during the fiscal year the Superintendent~~  
2 ~~determines that the county office of education may be unable to~~  
3 ~~meet its financial obligations for the current or the subsequent~~  
4 ~~fiscal year or if the county office has a qualified certification~~  
5 ~~pursuant to Section 1240, he or she shall notify the county board~~  
6 ~~of education and the county superintendent in writing of that~~  
7 ~~determination and the basis for the determination. The notification~~  
8 ~~shall include the assumptions used in making the determination~~  
9 ~~and shall be available to the public. The Superintendent shall do~~  
10 ~~the following, as necessary, to ensure that the county office meets~~  
11 ~~its financial obligations:~~

12 ~~(1) Assign a fiscal expert, paid for by the Superintendent, to~~  
13 ~~advise the county office on its financial problems.~~

14 ~~(2) Conduct a study of the financial and budgetary conditions~~  
15 ~~of the county office. If, in the course of this review, the~~  
16 ~~Superintendent determines that his or her office requires analytical~~  
17 ~~assistance or expertise that is not available through the county~~  
18 ~~office, he or she may employ, at county office expense, on a~~  
19 ~~short-term basis, staff, including certified public accountants, to~~  
20 ~~provide the assistance and expertise.~~

21 ~~(3) Direct the county office to submit a financial projection of~~  
22 ~~all fund and cash balances of the county office as of June 30 of~~  
23 ~~the current year and the subsequent fiscal year as he or she requires.~~

24 ~~(4) Require the county office to encumber all contracts and other~~  
25 ~~obligations, to prepare appropriate cashflow analyses and monthly~~  
26 ~~or quarterly budget revisions, and to appropriately record all~~  
27 ~~receivables and payables.~~

28 ~~(5) Direct the county office to submit a proposal for addressing~~  
29 ~~the fiscal conditions that resulted in the determination that the~~  
30 ~~county office may not be able to meet its financial obligations.~~

31 ~~(6) Withhold compensation of the county board of education~~  
32 ~~and the county superintendent for failure to provide requested~~  
33 ~~financial information.~~

34 ~~(c) If, after taking the actions identified in subdivision (a), the~~  
35 ~~Superintendent determines that a county office will be unable to~~  
36 ~~meet its financial obligations for the current or subsequent fiscal~~  
37 ~~year, he or she shall notify the county board of education and the~~  
38 ~~county superintendent in writing of that determination and the~~  
39 ~~basis for that determination. The notification shall include the~~

~~1 assumptions used in making the determination and shall be  
2 available to the public.~~

~~3 (d) If the Superintendent makes that determination, or if the  
4 county office has a negative certification pursuant to Section 1240;  
5 the Superintendent, shall, as necessary to enable the county office  
6 to meet its financial obligations, do one or more of the following:~~

~~7 (1) Develop and impose, in consultation with the county board  
8 of education and the county superintendent, a budget that will  
9 enable the county to meet its financial obligations.~~

~~10 (2) Stay or rescind any action that is determined to be  
11 inconsistent with the ability of the county office to meet its  
12 obligations for the current or subsequent fiscal year and may, as  
13 necessary, appoint a fiscal adviser to perform any or all of the  
14 duties prescribed by this paragraph on his or her behalf. This  
15 includes any actions up to the point that the subsequent year's  
16 budget is approved by the Superintendent. The Superintendent  
17 shall inform the county board of education in writing of his or her  
18 justification for any exercise of authority under this paragraph.~~

~~19 (3) Assist in developing, in consultation with the county board  
20 of education and the county superintendent, a financial plan that  
21 will enable the county office to meet its future obligations.~~

~~22 (4) Assist in developing, in consultation with the county board  
23 of education and the county superintendent, a budget for the  
24 subsequent fiscal year. If necessary, the Superintendent shall  
25 continue to work with the county board of education and the county  
26 superintendent until the budget for the subsequent year is adopted.~~

~~27 (e) Any actions taken by the Superintendent pursuant to  
28 paragraph (1) or (2) of subdivision (d) shall be accompanied by a  
29 notification that includes the actions to be taken, the reasons for  
30 the actions, and the assumptions used to support the necessity for  
31 those actions. That notification shall be available to the public.~~

~~32 (f) This section does not authorize the Superintendent to  
33 abrogate any provision of a collective bargaining agreement that  
34 was entered into by a county office prior to the date upon which  
35 the Superintendent assumed authority pursuant to subdivision (d).~~

~~36 (g) The county office shall pay reasonable fees charged by the  
37 Superintendent for any administrative expenses incurred pursuant  
38 to subdivision (d) or costs associated with improving the office's  
39 financial management practices.~~

1     ~~(h) Notwithstanding any other provision of law, a county~~  
2     ~~treasurer shall not honor any warrant when the Superintendent, as~~  
3     ~~appropriate, has disapproved that warrant, or has disapproved the~~  
4     ~~order on county office funds for which a warrant was prepared.~~

5     ~~(i) For all purposes of errors and liability insurance policies, a~~  
6     ~~fiscal expert appointed pursuant to this section shall be deemed to~~  
7     ~~be an employee of the county office of education. The~~  
8     ~~Superintendent may require that the fiscal adviser be placed on~~  
9     ~~the county office of education payroll for the purposes of~~  
10    ~~remuneration, benefits, and payroll deductions.~~

11    ~~(j) If staff persons are hired pursuant to paragraph (2) of~~  
12    ~~subdivision (a), the Superintendent may certify to the Controller~~  
13    ~~an amount to be transferred to the State Department of Education,~~  
14    ~~from the funds that otherwise would be apportioned to the county~~  
15    ~~office of education pursuant to Section 2558, for the purpose of~~  
16    ~~paying all costs incurred by that staff in performing their respective~~  
17    ~~services. The Controller, upon receipt of that certification, shall~~  
18    ~~transfer that amount.~~

19    ~~(k) To facilitate the appointment of a county office fiscal officer~~  
20    ~~and the employment of additional staff pursuant to paragraphs (1)~~  
21    ~~and (2), respectively, of subdivision (a), for the purposes of those~~  
22    ~~paragraphs, the Superintendent of Public Instruction is exempt~~  
23    ~~from the requirements of Article 6 (commencing with Section 999)~~  
24    ~~of Chapter 6 of Division 4 of the Military and Veterans Code and~~  
25    ~~Part 2 (commencing with Section 10100) of Division 2 of the~~  
26    ~~Public Contracts Code.~~

27    ~~SEC. 3. Section 42127.6 of the Education Code is amended to~~  
28    ~~read:~~

29    ~~42127.6. (a) (1) A school district shall provide the county~~  
30    ~~superintendent of schools with a copy of a study, report, evaluation,~~  
31    ~~or audit that was commissioned by the district, the county~~  
32    ~~superintendent, the Superintendent of Public Instruction, and state~~  
33    ~~control agencies and that contains evidence that the school district~~  
34    ~~is showing fiscal distress under the standards and criteria adopted~~  
35    ~~in Section 33127, or a report on the school district by the County~~  
36    ~~Office Fiscal Crisis and Management Assistance Team or any~~  
37    ~~regional team created pursuant to subdivision (i) of Section~~  
38    ~~42127.8. The county superintendent shall review and consider~~  
39    ~~studies, reports, evaluations, or audits of the school district that~~  
40    ~~contain evidence that the school district is demonstrating fiscal~~

1 ~~distress under the standards and criteria adopted in Section 33127~~  
2 ~~or that contain a finding by an external reviewer that more than~~  
3 ~~three of the 15 most common predictors of a school district needing~~  
4 ~~intervention, as determined by the County Office Fiscal Crisis and~~  
5 ~~Management Assistance Team, are present. If these findings are~~  
6 ~~made, the county superintendent shall investigate the financial~~  
7 ~~condition of the school district and determine if the school district~~  
8 ~~may be unable to meet its financial obligations for the current or~~  
9 ~~one subsequent fiscal year, or should receive a qualified or negative~~  
10 ~~interim financial certification pursuant to Section 42131.~~

11 ~~(2) If, at any time during the fiscal year, the county~~  
12 ~~superintendent of schools determines that a school district may be~~  
13 ~~unable to meet its financial obligations for the current or one~~  
14 ~~subsequent fiscal year, or if a school district has a qualified or~~  
15 ~~negative certification pursuant to Section 42131, he or she shall~~  
16 ~~notify the governing board of the school district and the~~  
17 ~~Superintendent of Public Instruction in writing of that~~  
18 ~~determination and the basis for the determination. The notification~~  
19 ~~shall include the assumptions used in making the determination~~  
20 ~~and shall be available to the public. The county superintendent of~~  
21 ~~schools shall report to the Superintendent of Public Instruction on~~  
22 ~~the financial condition of the school district and his or her proposed~~  
23 ~~remedial actions, and shall do at least one of the following and all~~  
24 ~~actions that are necessary to ensure that the district meets its~~  
25 ~~financial obligations:~~

26 ~~(A) Assign a fiscal expert, paid for by the county superintendent,~~  
27 ~~to advise the district on its financial problems.~~

28 ~~(B) Conduct a study of the financial and budgetary conditions~~  
29 ~~of the district that includes, but is not limited to, a review of~~  
30 ~~internal controls. If, in the course of this review, the county~~  
31 ~~superintendent determines that his or her office requires analytical~~  
32 ~~assistance or expertise that is not available through the district, he~~  
33 ~~or she may employ, on a short-term basis, with the approval of the~~  
34 ~~Superintendent of Public Instruction, staff, including certified~~  
35 ~~public accountants, to provide the assistance and expertise. The~~  
36 ~~school district shall pay 75 percent and the county office of~~  
37 ~~education shall pay 25 percent of these staff costs.~~

38 ~~(C) Direct the school district to submit a financial projection of~~  
39 ~~all fund and cash balances of the district as of June 30 of the current~~  
40 ~~year and subsequent fiscal years as he or she requires.~~



1     ~~(D) Require the district to encumber all contracts and other~~  
2     ~~obligations, to prepare appropriate cashflow analyses and monthly~~  
3     ~~or quarterly budget revisions, and to appropriately record all~~  
4     ~~receivables and payables.~~

5     ~~(E) Direct the district to submit a proposal for addressing the~~  
6     ~~fiscal conditions that resulted in the determination that the district~~  
7     ~~may not be able to meet its financial obligations.~~

8     ~~(F) Withhold compensation of the members of the governing~~  
9     ~~board and the district superintendent for failure to provide~~  
10    ~~requested financial information. This action may be appealed to~~  
11    ~~the Superintendent of Public Instruction pursuant to subdivision~~  
12    ~~(b).~~

13    ~~(G) Assign the Fiscal Crisis and Management Assistance Team~~  
14    ~~to review teacher hiring practices, teacher retention rate, percentage~~  
15    ~~of provision of highly qualified teachers, and the extent of teacher~~  
16    ~~misassignment in the school district and provide the district with~~  
17    ~~recommendations to streamline and improve the teacher hiring~~  
18    ~~process, teacher retention rate, extent of teacher misassignment,~~  
19    ~~and provision of highly qualified teachers. If a review team is~~  
20    ~~assigned to a school district, the district shall follow the~~  
21    ~~recommendations of the team, unless the district shows good cause~~  
22    ~~for failure to do so. The Fiscal Crisis and Management Assistance~~  
23    ~~Team may not recommend an action that would abrogate a contract~~  
24    ~~that governs employment.~~

25    ~~(3) Any contract entered into by a county superintendent of~~  
26    ~~schools for the purposes of this subdivision is subject to the~~  
27    ~~approval of the Superintendent of Public Instruction.~~

28    ~~(4) An employee of a school district who provides information~~  
29    ~~regarding improper governmental activity, as defined in Section~~  
30    ~~44112, is entitled to the protection provided pursuant to Article 5~~  
31    ~~(commencing with Section 44110) of Chapter 1 of Part 25.~~

32    ~~(b) Within five days of the county superintendent making the~~  
33    ~~determination specified in subdivision (a), a school district may~~  
34    ~~appeal the basis of the determination and any of the proposed~~  
35    ~~actions that the county superintendent has indicated that he or she~~  
36    ~~will take to further examine the financial condition of the district.~~  
37    ~~The Superintendent of Public Instruction shall sustain or deny any~~  
38    ~~or all parts of the appeal within 10 days.~~

39    ~~(c) If, after taking the actions identified in subdivision (a), the~~  
40    ~~county superintendent determines that a district will be unable to~~

1 meet its financial obligations for the current or subsequent fiscal  
2 year, he or she shall notify the school district governing board and  
3 the Superintendent of Public Instruction in writing of that  
4 determination and the basis for that determination. The notification  
5 shall include the assumptions used in making the determination  
6 and shall be provided to the superintendent of the school district  
7 and parent and teacher organization of the district.

8 (d) ~~Within five days of the county superintendent making the~~  
9 ~~determination specified in subdivision (c), a school district may~~  
10 ~~appeal that determination to the Superintendent. The~~  
11 ~~Superintendent shall sustain or deny the appeal within 10 days. If~~  
12 ~~the governing board of the school district appeals the determination,~~  
13 ~~the county superintendent of schools may stay any action of the~~  
14 ~~governing board that he or she determines is inconsistent with the~~  
15 ~~ability of the district to meet its financial obligations for the current~~  
16 ~~or subsequent fiscal year until resolution of the appeal by the~~  
17 ~~Superintendent.~~

18 (e) ~~If the appeal described in subdivision (d) is denied or not~~  
19 ~~filed, or if the district has a negative certification pursuant to~~  
20 ~~Section 42131, the county superintendent, in consultation with the~~  
21 ~~Superintendent, shall take at least one of the actions described in~~  
22 ~~paragraphs (1) to (5), inclusive, and all actions that are necessary~~  
23 ~~to ensure that the district meets its financial obligations and shall~~  
24 ~~make a report to the Superintendent about the financial condition~~  
25 ~~of the district and remedial actions proposed by the county~~  
26 ~~superintendent.~~

27 (1) ~~Develop and impose, in consultation with the Superintendent~~  
28 ~~and the school district governing board, a budget revision that will~~  
29 ~~enable the district to meet its financial obligations in the current~~  
30 ~~fiscal year.~~

31 (2) ~~Stay or rescind any action that is determined to be~~  
32 ~~inconsistent with the ability of the school district to meet its~~  
33 ~~obligations for the current or subsequent fiscal year. This includes~~  
34 ~~any actions up to the point that the subsequent year's budget is~~  
35 ~~approved by the county superintendent of schools. The county~~  
36 ~~superintendent of schools shall inform the school district governing~~  
37 ~~board in writing of his or her justification for any exercise of~~  
38 ~~authority under this paragraph.~~

1     ~~(3) Assist in developing, in consultation with the governing~~  
2     ~~board of the school district, a financial plan that will enable the~~  
3     ~~district to meet its future obligations.~~

4     ~~(4) Assist in developing, in consultation with the governing~~  
5     ~~board of the school district, a budget for the subsequent fiscal year.~~  
6     ~~If necessary, the county superintendent of schools shall continue~~  
7     ~~to work with the governing board of the school district until the~~  
8     ~~budget for the subsequent year is adopted.~~

9     ~~(5) As necessary, appoint a fiscal adviser to perform any or all~~  
10    ~~of the duties prescribed by this section on his or her behalf.~~

11    ~~(f) Any action taken by the county superintendent of schools~~  
12    ~~pursuant to paragraph (1) or (2) of subdivision (e) shall be~~  
13    ~~accompanied by a notification that shall include the actions to be~~  
14    ~~taken, the reasons for the actions, and the assumptions used to~~  
15    ~~support the necessity for these actions.~~

16    ~~(g) This section does not authorize the county superintendent~~  
17    ~~to abrogate any provision of a collective bargaining agreement~~  
18    ~~that was entered into by a school district prior to the date upon~~  
19    ~~which the county superintendent of schools assumed authority~~  
20    ~~pursuant to subdivision (e).~~

21    ~~(h) The school district shall pay 75 percent and the county office~~  
22    ~~of education shall pay 25 percent of the administrative expenses~~  
23    ~~incurred pursuant to subdivision (e) or costs associated with~~  
24    ~~improving the district's financial management practices. The~~  
25    ~~Superintendent shall develop and distribute to affected school~~  
26    ~~districts and county offices of education advisory guidelines~~  
27    ~~regarding the appropriate amount of administrative expenses~~  
28    ~~charged pursuant to this subdivision.~~

29    ~~(i) Notwithstanding Section 42647 or 42650 or any other law,~~  
30    ~~a county treasurer shall not honor any warrant if, pursuant to~~  
31    ~~Sections 42127 to 42127.5, inclusive, or pursuant to this section,~~  
32    ~~the county superintendent or the Superintendent, as appropriate,~~  
33    ~~has disapproved that warrant or the order on school district funds~~  
34    ~~for which a warrant was prepared.~~

35    ~~(j) Effective upon the certification of the election results for a~~  
36    ~~newly organized school district pursuant to Section 35763, the~~  
37    ~~county superintendent of schools may exercise any of the powers~~  
38    ~~and duties of this section regarding the reorganized school district~~  
39    ~~and the other affected school districts until the reorganized school~~  
40    ~~district becomes effective for all purposes in accordance with~~

1 ~~Article 4 (commencing with Section 35530) of Chapter 3 of Part~~  
2 ~~21.~~

3 ~~(k) The Superintendent shall monitor the efforts of a county~~  
4 ~~office of education in exercising its authority under this section~~  
5 ~~and may exercise any of that authority if he or she finds that the~~  
6 ~~actions of the county superintendent of schools are not effective~~  
7 ~~in resolving the financial problems of the school district. Upon a~~  
8 ~~decision to exercise the powers of the county superintendent of~~  
9 ~~schools, the county superintendent of schools is relieved of those~~  
10 ~~powers assumed by the Superintendent. In addition to the actions~~  
11 ~~taken by the county superintendent, the Superintendent shall take~~  
12 ~~further actions to ensure the long-term fiscal stability of the district.~~  
13 ~~The county office of education shall reimburse the Superintendent~~  
14 ~~for all of his or her costs in exercising his or her authority under~~  
15 ~~this subdivision. The Superintendent shall promptly notify the~~  
16 ~~county superintendent of schools, the county board of education,~~  
17 ~~the superintendent of the school district, the governing board of~~  
18 ~~the school district, the appropriate policy and fiscal committees~~  
19 ~~of each house of the Legislature, and the Department of Finance~~  
20 ~~of his or her decision to exercise the authority of the county~~  
21 ~~superintendent of schools.~~

22 ~~SEC. 4.~~

23 ~~SEC. 2.~~ Section 42131 of the Education Code is amended to  
24 read:

25 42131. (a) (1) Pursuant to the reports required by Section  
26 42130, the governing board of each school district shall certify, in  
27 writing, within 45 days after the close of the period being reported,  
28 whether the school district is able to meet its financial obligations  
29 for the remainder of the fiscal year and, based on current forecasts,  
30 for the subsequent fiscal year. These certifications shall be based  
31 upon the board's assessment, on the basis of standards and criteria  
32 for fiscal stability adopted by the State Board of Education pursuant  
33 to Section 33127, of the district budget, as revised to reflect current  
34 information regarding the adopted State Budget, district property  
35 tax revenues pursuant to Chapter 6 (commencing with Section 95)  
36 of Part 0.5 of Division 1 of the Revenue and Taxation Code, and  
37 ending balances for the preceding fiscal year as reported pursuant  
38 to Section 42100. The certifications shall be classified as positive,  
39 qualified, or negative, as prescribed by the Superintendent of Public  
40 Instruction for the purposes of determining subsequent actions by

1 the Superintendent of Public Instruction, the Controller, or the  
2 county superintendent of schools, pursuant to subdivisions (b) and  
3 (c). These certifications shall be based upon the financial and  
4 budgetary reports required by Section 42130 but may include  
5 additional financial information known by the governing board to  
6 exist at the time of each certification. For purposes of this  
7 subdivision, a negative certification shall be assigned to any school  
8 district that, based upon current projections, will be unable to meet  
9 its financial obligations for the remainder of the fiscal year *or the*  
10 *subsequent fiscal year*. A qualified certification shall be assigned  
11 to any school district that, based upon current projections, may  
12 not meet its financial obligations for the current fiscal year ~~or the~~  
13 ~~subsequent fiscal year~~ *two subsequent fiscal years*. A positive  
14 certification shall be assigned to any school district that, based  
15 upon current projections, will meet its financial obligations for the  
16 current fiscal year and ~~the subsequent fiscal year~~ *two subsequent*  
17 *fiscal years*.

18 (2) (A) A copy of each certification and a copy of the report  
19 submitted to the governing board pursuant to Section 42130 shall  
20 be filed with the county superintendent of schools. If a county  
21 office of education receives a positive certification when it  
22 determines a negative or qualified certification should have been  
23 filed, the county superintendent of schools shall change the  
24 certification to negative or qualified, as appropriate, and, no later  
25 than 75 days after the close of the period being reported, shall  
26 provide notice of that action to the governing board of the school  
27 district and to the Superintendent. No later than five days after a  
28 school district receives notice from the county superintendent of  
29 schools of a change in the district's certification to negative or  
30 qualified, the governing board of the district may submit an appeal  
31 to the Superintendent regarding the validity of that change, in  
32 accordance with the criteria applied to those designations pursuant  
33 to this subdivision. No later than 10 days after receiving that  
34 appeal, the Superintendent shall determine the certification to be  
35 assigned to the district, and shall notify the school district  
36 governing board and the county superintendent of schools of that  
37 determination.

38 (B) Copies of any certification in which the governing board is  
39 unable to certify unqualifiedly that these financial obligations will  
40 be met and a copy of the report submitted to the governing board

1 pursuant to Section 42130 shall be sent by the county office of  
2 education to the Controller and the Superintendent at the time of  
3 the certification, together with a completed transmittal form  
4 provided by the Superintendent. Within 75 days after the close of  
5 the reporting period on all school district certifications that are  
6 classified as qualified or negative pursuant to this section, the  
7 appropriate county superintendent of schools shall submit to the  
8 Superintendent and the Controller his or her comments on those  
9 certifications and report any action proposed or taken pursuant to  
10 subdivision (b).

11 (3) All reports and certifications required under this subdivision  
12 shall be in a format or on forms prescribed by the Superintendent,  
13 and shall be based on standards and criteria for fiscal stability  
14 adopted by the State Board of Education pursuant to Section 33127.

15 (4) This subdivision does not preclude the submission of  
16 additional budgetary or financial reports by the county  
17 superintendent of schools to the district governing board, or to the  
18 Superintendent.

19 (5) *As part of each report submitted pursuant to Section 42130,*  
20 *and any other report that indicates that a school district is assigned*  
21 *a qualified certification as defined in this subdivision, the*  
22 *Superintendent, a county superintendent, and the governing board*  
23 *of a school district shall clearly distinguish between a school*  
24 *district that is assigned a qualified certification because, based*  
25 *on current projections, it may not meet its financial obligations*  
26 *only for the second subsequent fiscal year following the current*  
27 *fiscal year, and a school district that is otherwise assigned a*  
28 *qualified certification.*

29 (b) As to any school district having a negative or qualified  
30 certification, the county superintendent of schools shall exercise  
31 his or her authority, as necessary, pursuant to Section 42127.6.

32 (c) Within 75 days after the close of each reporting period, each  
33 county superintendent of schools shall report to the Controller and  
34 the Superintendent as to whether the governing board of each of  
35 the school districts under his or her jurisdiction has submitted the  
36 certification required by subdivision (a). That report shall account  
37 for all districts under the jurisdiction of the county office of  
38 education, and indicate the type of certification filed by each  
39 district.

1 (d) The Controller's office may conduct an audit or review of  
2 the fiscal condition of any district having a negative or qualified  
3 certification.

4 (e) The governing board of each school district filing a qualified  
5 or negative certification for the second report required under  
6 Section 42130, or classified as qualified or negative by the county  
7 superintendent of schools, shall provide to the county  
8 superintendent of schools, the Controller, and the Superintendent  
9 no later than June 1, financial statement projections of the district's  
10 fund and cash balances through June 30 for the period ending April  
11 30. The governing boards of all other school districts are  
12 encouraged to develop a similar financial statement for use in  
13 developing the beginning fund balances of the district for the  
14 ensuing fiscal year.

15 (f) Any school district for which the county board of education  
16 serves as the governing board is not subject to subdivisions (a) to  
17 (e), inclusive, but is governed instead by the interim report,  
18 monitoring, and review procedures set forth in subdivision (l) of  
19 Section 1240 and in Article 2 (commencing with Section 1620)  
20 of Chapter 5 of Part 2 of Division 1 of Title 1.

21 (g) *The governing board of a school district that chooses to*  
22 *propose reductions or cuts to expenditures in the current year,*  
23 *after being assigned a qualified certification because it may not*  
24 *meet its financial obligations only for the second subsequent fiscal*  
25 *year following the current fiscal year, shall present that proposal*  
26 *and provide for public comment at an open meeting held prior to*  
27 *the open meeting at which the governing board of the school*  
28 *district takes action on that proposal.*

29 (h) *The Superintendent may waive any reporting, certification,*  
30 *and intervention requirements based on the second subsequent*  
31 *fiscal year following the current fiscal year for a county office of*  
32 *education pursuant to Sections 1240 and 1630, and for a school*  
33 *district pursuant to Sections 42127.6, 42130, and 42131, if all of*  
34 *the following conditions are met:*

35 (1) *The county superintendent acting for the county office of*  
36 *education or the governing board of the school district requests*  
37 *that the waiver be approved, and provides any information, upon*  
38 *request, that is needed by the department to analyze the waiver*  
39 *request.*

1     (2) *In the case of a school district requesting a waiver pursuant*  
2 *to this subdivision, the county superintendent of the county where*  
3 *that school district is located provides a letter supporting the*  
4 *waiver.*

5     (3) *The Superintendent determines with reasonable certainty,*  
6 *based on the requestor's fiscal history, current financial status*  
7 *and budget projections, and the Superintendent's expectations*  
8 *concerning future funding levels, that the county office of education*  
9 *or school district will meet its financial obligations for the second*  
10 *subsequent fiscal year following the current fiscal year.*